

**UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA**

In Re:

Robert Glenn Landis,  
  
Debtor.

Case No. 24-50117

Chapter 11 (Subchapter V)

**MOTION TO VALUE COLLATERAL PURSUANT TO FEDERAL RULE OF BANK-  
RUPTCY PROCEDURE 3012**

Wells Fargo Commercial Distribution Finance, LLC (“Wells Fargo”), as a party in interest, hereby files this motion to value the Debtor’s collateral pursuant to Federal Rule of Bankruptcy Procedure 3012, and in support thereof states as follows:

1. The Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.
2. This motion arises under Federal Rule of Bankruptcy Procedure 3012 and 11 U.S.C. § 506(a).
3. The Debtor filed its Chapter 11 petition on March 5, 2024. [Doc. 1].
4. The Debtor filed Schedules, including Schedule A/B and Schedule D on March 26, 2024. [Doc. 22].

5. On Schedule A/B, the Debtor scheduled the Property's value at \$250,000 and noted that the CTA Value is \$283,900. [Doc. 22].
6. On Schedule D, the Debtor scheduled three secured claims on the Property, as follows:
  - a. PHH Mortgage Services – claim amount \$150,796 – real estate mortgage;
  - b. Specialized Loan Servicing LLC – claim amount \$79,086 – credit line;
  - c. Wells Fargo Commercial Distribution Finance, LLC – claim amount \$292,777 – judgment lien.
7. Wells Fargo filed its Proof of Claim, Claim 10, on April 1, 2024.
8. As indicated on Claim 10, Wells Fargo has a secured claim valued at \$293,287.69 on the Debtor's Property located at 124 Woodys Place, Winchester, VA 22602 (the "Property").
9. On April 19, 2024, the Debtor filed Amended Schedule A/B, where the Debtor's value of the Property remained at \$250,000 (the initial Schedule A/B and Amended Schedule A/B collectively referred to as "Schedule A/B"). [Doc. 29].
10. On information and belief, the Debtor's property may be undervalued on Schedule A/B. The tax assessed value according to the Frederick County tax assessment database is \$283,000.
11. As a result of the Debtor's valuation of the Property, which Wells Fargo has a partially secured claim, Wells Fargo must necessarily have an appraisal conducted and a judicial determination of the value of the Property.

12. Rule 3012 provides in pertinent part, “[o]n request by a party in interest and after notice . . . and a hearing, the court may determine: (1) the amount of a secured claim under § 506(a) of the Code.” Fed. R. Bankr. P. 3012(a)(1). A request to determine the amount of a secured claim may be made by motion. Fed. R. Bankr. P. 3012(b).

13. Section 506(a) provides in pertinent part,

[a]n allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property . . . *Such value shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property*, and in conjunction with any hearing on such disposition or use *or on a plan affecting such creditor's interest*. (emphasis added).

14. Although there is dispute among courts on the proper valuation date for collateral secured by creditors pursuant to § 506(a), some courts agree that it is necessary to look to the purpose of the valuation, while others resolve that the correct valuation date is the petition date. *See In re Roach*, No. 08-20667-DRD-13, 2010 WL 234959, at \*3 (Bankr. W.D. Mo. Jan. 15, 2010) (where the valuation was occurring for purposes of plan confirmation, the court found that the appropriate valuation date for the collateral to be the date of the confirmation hearing, and not the petition date.); *In re S-Tek 1, LLC*, No. 20-12241-J11, 2022 WL 2133975, at \*9 (Bankr. D.N.M. June 13, 2022) (“the value of the secured creditor's interest in collateral under § 506(a) is determined at or near the plan confirmation date because that is the purpose for which the collateral is being valued”); *but see In re Vega*, No. BR 15-00640, 2016 WL 1254663, at \*5 (Bankr. N.D. Iowa Mar. 30, 2016) (proper time to determine a creditor's secured status is at the time of filing); *In*

*re DiMauro*, 548 B.R. 685, 689 (Bankr. D. Del. 2016) (In the context of valuation for the purpose of lien stripping pursuant to section 1322(b)(2) the court decided on a bright line rule of the petition date and reasoned that this would create uniformity and reduce the incentive to delay litigation.).

15. Pursuant to Rule 3012, Wells Fargo is seeking to hire an appraiser and the Court's authority to allow the appraiser to enter the Property in order to conduct the appraisal. Determining the value of the Property in a necessary step in determining the amount of Wells Fargo's secured claim and the value of the Property for purposes of the Debtor's Chapter 11 plan.

WHEREFORE, Wells Fargo Commercial Distribution Finance, LLC, prays that this Court (i) grant the motion to value the collateral, (ii) grant the request to authorize an appraisal for the Property, and (iii) for such other relief as this Court deems just and proper.

Respectfully submitted,

**Gross, Romanick, Dean & DeSimone, P.C.**

/s/

Dated: May \_\_, 2024

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***ATTORNEYS FOR CREDITOR***



**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 14th day of May 2024, the above and foregoing was filed using the Court's CM/ECF notification system, which served a copy on all counsel of record and/or U.S. Mail, postage prepaid, on the following parties:

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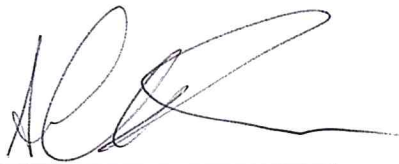
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